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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,244	09/25/2003	Mike McDonald	MMD-100	3527
7590	06/24/2005		EXAMINER SLACK, NAKO N	
Russell J. Egan Suite 120 908 Town & Country Blvd. Houston, TX 77024-2221			ART UNIT 3635	PAPER NUMBER

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/669,244

Applicant(s)

MCDONALD, MIKE

Examiner

Naoko Slack

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/25/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

7

DETAILED ACTION

Information Disclosure Statement

Applicant's IDS received September 25, 2003 has been entered and considered.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the corrugated members bonded to the intermediate sheet with the corrugations running normal to each other (claim 4) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objection

In claim 10, line 1, "1further" appears to be a typographical error. Correction is required.

Claim Rejections - 35 USC 112

The following is a quotation of the second paragraph of 35 USC 112:

The specification shall conclude with one or more claims particularly pointing out and

Art Unit: 3635

distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10, 12, and 13 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 depends from claim 1 and recites the limitation "the outer corrugated member" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 12 and 13 depend from claim 1 and recite the limitation "said resilient material" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC 102(b)

The following is a quotation of the appropriate paragraphs of 35 USC 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 5 are rejected under 35 USC 102(b) as being clearly anticipated by US Patent 5,433,156 to Hutchinson.

Claim 1:

Hutchinson discloses a building panel comprising a first member of stiff

Art Unit: 3635

corrugated material, an intermediate sheet of insulative material, and a second member of stiff corrugated material, the corrugated member being bonded to opposite sides of the intermediate sheet.

Claim 2:

Hutchinson's corrugated members may be formed from plastics material.

Claim 3:

Hutchinson's corrugated members may be formed from wood pulp product.

Claim 5:

Hutchinson's corrugated members are bonded to the intermediate sheet with the corrugations running parallel to each other.

Claims 1, 4, 10, and 13 are rejected under 35 USC 102(b) as being clearly anticipated by US Patent 3,950,910 to Pobanz.

Claim 1:

Pobanz discloses a building panel comprising a first member of stiff corrugated material, an intermediate sheet of insulative material, and a second member of stiff corrugated material, the corrugated member being bonded to opposite sides of the intermediate sheet.

Claim 4:

Pobanz's corrugated members are bonded to the intermediate sheet with the corrugations running normal to each other.

Claim 10:

Pobanz's layer of resilient material spans the outer side of an outer corrugated member.

Claim 13:

Pobanz's resilient material spans the peaks of the corrugated member.

Claim Rejections - 35 USC 103

The following is a quotation of 35 USC 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-9, 11, and 12 are rejected under 35 USC 103(a) as being unpatentable over US Patent 3,950,910 to Pobanz as applied to claims 1 and 10 above, and further in view of US Patent 4,852,316 to Webb.

Claim 6-9, 11, 12:

While Pobanz states that the panels are coated with a fire-retardant and water-resistant sheet (column 2, lines 16-19), Pobanz does not disclose that the corrugated members are coated with a fungicide, fire retardant material, or mold defeating material.

However, such coatings are well known in the building arts for protecting structures. For example, Webb teaches an exterior wall panel comprising fire resistant bonded layers (column 1, line 10), the outer layer comprising a coating comprising a resilient acrylic resin, fiber, and a fungicide (column 1, lines 48-49). In view of Webb, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply a resilient acrylic, fiber, fungicide coating to Pobanz's panels to strengthen the panels and protect the panels from decay.

Regarding claim 12, application of Webb's coating would naturally follow the shape of the corrugated member, as a coating comprises a liquid which follows the contours of the coated surface.

Prior Art Made of Record

The following US patents are considered relevant to the instant application and are made of record:

US Patent 6,599,645 to Wittebrood discloses a corrugated metal panel;

US Patent 2,045,733 to Spafford discloses an insulation panel with corrugated sheets; and

US Patent 4,089,324 to Tjaden discloses a plastic coating on a corrugated panel.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naoko Slack whose telephone number is (571) 272-6848. The examiner can normally be reached on Mon-Fri (6:00 am-2:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Naoko Slack
Primary Examiner
Art Unit 3635

NS
June 20, 2005